

Calendar No. 430

111TH CONGRESS
2^D SESSION**S. 1508**

To amend the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) in order to prevent the loss of billions in taxpayer dollars.

IN THE SENATE OF THE UNITED STATES

JULY 23, 2009

Mr. CARPER (for himself, Mr. COBURN, Mrs. McCASKILL, Ms. COLLINS, Mr. MCCAIN, and Mr. LIEBERMAN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

JUNE 15, 2010

Reported by Mr. LIEBERMAN, with an amendment

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To amend the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) in order to prevent the loss of billions in taxpayer dollars.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Improper Payments
5 Elimination and Recovery Act of 2009”.

1 **SEC. 2. IMPROPER PAYMENTS ELIMINATION AND RECOV-**
 2 **ERY.**

3 (a) SUSCEPTIBLE PROGRAMS AND ACTIVITIES.—Sec-
 4 tion 2 of the Improper Payments Information Act of 2002
 5 (31 U.S.C. 3321 note) is amended by striking subsection
 6 (a) and inserting the following:

7 “(a) IDENTIFICATION OF SUSCEPTIBLE PROGRAMS
 8 AND ACTIVITIES.—

9 “(1) IN GENERAL.—The head of each agency
 10 shall, in accordance with guidance prescribed by the
 11 Director of the Office of Management and Budget,
 12 periodically review all programs and activities that
 13 the relevant agency head administers and identify all
 14 programs and activities that may be susceptible to
 15 significant improper payments.

16 “(2) FREQUENCY.—Reviews under paragraph
 17 (1) shall be performed for each program and activity
 18 that the relevant agency head administers during the
 19 year after which the Improper Payments Elimini-
 20 nation and Recovery Act of 2009 is enacted and at
 21 least once every 3 fiscal years thereafter.

22 “(3) RISK ASSESSMENTS.—

23 “(A) DEFINITION.—In this subsection the
 24 term ‘significant’ means—

25 “(i) except as provided under clause
 26 (ii), that improper payments in the pro-

1 gram or activity in the preceding fiscal
2 year may have exceeded—

3 “(I) \$10,000,000 of all program
4 or activity payments made during that
5 fiscal year reported and 2.5 percent of
6 program outlays; or

7 “(II) \$100,000,000; and

8 “(ii) with respect to fiscal years fol-
9 lowing September 30th of a fiscal year be-
10 ginning before fiscal year 2013 as deter-
11 mined by the Office of Management and
12 Budget, that improper payments in the
13 program or activity in the preceding fiscal
14 year may have exceeded—

15 “(I) \$10,000,000 of all program
16 or activity payments made during that
17 fiscal year reported and 1.5 percent of
18 program outlays; or

19 “(II) \$100,000,000.

20 “(B) SCOPE.—In conducting the reviews
21 under paragraph (1), the head of each agency
22 shall take into account those risk factors that
23 are likely to contribute to a susceptibility to sig-
24 nificant improper payments, such as—

1 “(i) whether the program or activity
2 reviewed is new to the agency;

3 “(ii) the complexity of the program or
4 activity reviewed;

5 “(iii) the volume of payments made
6 through the program or activity reviewed;

7 “(iv) whether payments or payment
8 eligibility decisions are made outside of the
9 agency, such as by a State or local govern-
10 ment;

11 “(v) recent major changes in program
12 funding, authorities, practices, or proce-
13 dures;

14 “(vi) the level and quality of training
15 for personnel responsible for making pro-
16 gram eligibility determinations or certi-
17 fying that payments are accurate; and

18 “(vii) significant deficiencies in the
19 audit report of the agency or other rel-
20 evant management findings that might
21 hinder accurate payment certification.”.

22 (b) ESTIMATION OF IMPROPER PAYMENTS.—Section
23 2 of the Improper Payments Information Act of 2002 (31
24 U.S.C. 3321 note) is amended by striking subsection (b)
25 and inserting the following:

1 “(b) ESTIMATION OF IMPROPER PAYMENTS.—With
2 respect to each program and activity identified under sub-
3 section (a), the head of the relevant agency shall—

4 “(1) produce a statistically valid or otherwise
5 appropriate estimate of the improper payments
6 made by each program and activity; and

7 “(2) include those estimates in the accom-
8 panying materials to the annual financial statement
9 of the agency required under section 3515 of title
10 31, United States Code, or similar provision of law
11 and applicable guidance of the Office of Manage-
12 ment and Budget.”.

13 (c) REPORTS ON ACTIONS TO REDUCE IMPROPER
14 PAYMENTS.—Section 2 of the Improper Payments Infor-
15 mation Act of 2002 (31 U.S.C. 3321 note) is amended
16 by striking subsection (c) and inserting the following:

17 “(c) REPORTS ON ACTIONS TO REDUCE IMPROPER
18 PAYMENTS.—With respect to any program or activity of
19 an agency with estimated improper payments under sub-
20 section (b), the head of the agency shall provide with the
21 estimate under subsection (b) a report on what actions
22 the agency is taking to reduce improper payments, includ-
23 ing—

24 “(1) a description of the causes of the improper
25 payments, actions planned or taken to correct those

1 causes, and the planned or actual completion date of
2 the actions taken to address those causes;

3 “(2) in order to reduce improper payments to
4 a level below which further expenditures to reduce
5 improper payments would cost more than the
6 amount such expenditures would save in prevented
7 or recovered improper payments, a statement of
8 whether the agency has what is needed with respect
9 to—

10 “(A) internal controls;

11 “(B) human capital; and

12 “(C) information systems and other infra-
13 structure;

14 “(3) if the agency does not have sufficient re-
15 sources to establish and maintain effective internal
16 controls under paragraph (2)(A), a description of
17 the resources the agency has requested in its budget
18 submission to establish and maintain such internal
19 controls;

20 “(4) program-specific and activity-specific im-
21 proper payments reduction targets that have been
22 approved by the Director of the Office of Manage-
23 ment and Budget; and

24 “(5) a description of the steps the agency has
25 taken to ensure that agency managers, programs,

1 and, where appropriate, States and localities are
 2 held accountable through annual performance ap-
 3 praisal criteria for—

4 “(A) meeting applicable improper pay-
 5 ments reduction targets; and

6 “(B) establishing and maintaining suffi-
 7 cient internal controls, including an appropriate
 8 control environment, that effectively—

9 “(i) prevent improper payments from
 10 being made; and

11 “(ii) promptly detect and recover im-
 12 proper payments that are made.”.

13 (d) REPORTS ON ACTIONS TO RECOVER IMPROPER
 14 PAYMENTS.—Section 2 of the Improper Payments Infor-
 15 mation Act of 2002 (31 U.S.C. 3321 note) is amended—

16 (1) by striking subsection (e);

17 (2) by redesignating subsections (d) and (f) as
 18 subsections (f) and (g), respectively; and

19 (3) by inserting after subsection (c) the fol-
 20 lowing:

21 “(d) REPORTS ON ACTIONS TO RECOVER IMPROPER
 22 PAYMENTS.—With respect to any improper payments
 23 identified in recovery audits conducted under section 2(h)
 24 of the Improper Payments Elimination and Recovery Act
 25 of 2009 (31 U.S.C. 3321 note), the head of the agency

1 shall provide with the estimate under subsection (b) a re-
2 port on all actions the agency is taking to recover im-
3 proper payments, including—

4 “(1) a discussion of the methods used by the
5 agency to recover overpayments;

6 “(2) the amounts recovered, outstanding, and
7 determined to not be collectable, including the per-
8 cent such amounts represent of the total overpay-
9 ments of the agency;

10 “(3) if a determination has been made that cer-
11 tain overpayments are not collectable, a justification
12 for that determination;

13 “(4) an aging schedule of the amounts out-
14 standing;

15 “(5) a summary of how recovered amounts have
16 been disposed of;

17 “(6) a discussion of any conditions giving rise
18 to improper payments and how those conditions are
19 being resolved; and

20 “(7) if the agency has determined under section
21 2(h) of the Improper Payments Elimination and Re-
22 covery Act of 2009 (31 U.S.C. 3321 note) that per-
23 forming recovery audits for any applicable program
24 or activity is not cost effective, a justification for
25 that determination.

1 “(e) GOVERNMENTWIDE REPORTING OF IMPROPER
2 PAYMENTS AND ACTIONS TO RECOVER IMPROPER PAY-
3 MENTS.—

4 “(1) REPORT.—Each fiscal year the Director of
5 the Office of Management and Budget shall submit
6 a report with respect to the preceding fiscal year on
7 actions agencies have taken to report information re-
8 garding improper payments and actions to recover
9 improper payments to—

10 “(A) the Committee on Homeland Security
11 and Governmental Affairs of the Senate;

12 “(B) the Committee on Oversight and Gov-
13 ernment Reform of the House of Representa-
14 tives; and

15 “(C) the Comptroller General.

16 “(2) CONTENTS.—Each report under this sub-
17 section shall include—

18 “(A) a summary of the reports of each
19 agency on improper payments and recovery ac-
20 tions submitted under this section;

21 “(B) an identification of the compliance
22 status of each agency to which this Act applies;

23 “(C) governmentwide improper payment
24 reduction targets; and

1 “(D) a discussion of progress made to-
2 wards meeting governmentwide improper pay-
3 ment reduction targets.”.

4 (e) DEFINITIONS.—Section 2 of the Improper Pay-
5 ment Information Act of 2002 (31 U.S.C. 3321 note) is
6 amended by striking subsections (f) (as redesignated by
7 this section) and inserting the following:

8 “(f) DEFINITIONS.—In this section:

9 “(1) AGENCY.—The term ‘agency’ means an
10 executive agency, as that term is defined in section
11 102 of title 31, United States Code.

12 “(2) IMPROPER PAYMENT.—The term ‘im-
13 proper payment’—

14 “(A) means any payment that should not
15 have been made or that was made in an incor-
16 rect amount (including overpayments and un-
17 derpayments) under statutory, contractual, ad-
18 ministrative, or other legally applicable require-
19 ments; and

20 “(B) includes any payment to an ineligible
21 recipient, any payment for an ineligible good or
22 service, any duplicate payment, any payment
23 for a good or service not received (except for
24 such payments where authorized by law), and

1 any payment that does not account for credit
2 for applicable discounts.

3 “(3) PAYMENT.—The term ‘payment’ means
4 any transfer or commitment for future transfer of
5 Federal funds such as cash, securities, loans, loan
6 guarantees, and insurance subsidies to any non-Fed-
7 eral person or entity, that is made by a Federal
8 agency, a Federal contractor, a Federal grantee, or
9 a governmental or other organization administering
10 a Federal program or activity.

11 “(4) PAYMENT FOR AN INELIGIBLE GOOD OR
12 SERVICE.—The term ‘payment for an ineligible good
13 or service’ shall include a payment for any good or
14 service that is rejected under any provision of any
15 contract, grant, lease, cooperative agreement, or any
16 other procurement mechanism.”.

17 (f) GUIDANCE BY THE OFFICE OF MANAGEMENT
18 AND BUDGET.—Section 2 of the Improper Payments In-
19 formation Act of 2002 (31 U.S.C. 3321 note) is amended
20 by striking subsection (g) (as redesignated by this section)
21 and inserting the following:

22 “(g) GUIDANCE BY THE OFFICE OF MANAGEMENT
23 AND BUDGET.—

24 “(1) IN GENERAL.—Not later than 6 months
25 after the date of enactment of the Improper Pay-

1 ments Elimination and Recovery Act of 2009, the
2 Director of the Office of Management and Budget
3 shall prescribe guidance for agencies to implement
4 the requirements of this section. The guidance shall
5 not include any exemptions to such requirements not
6 specifically authorized by this section.

7 “(2) CONTENTS.—The guidance under para-
8 graph (1) shall prescribe—

9 “(A) the form of the reports on actions to
10 reduce improper payments, recovery actions,
11 and governmentwide reporting; and

12 “(B) strategies for addressing risks and
13 establishing appropriate prepayment and
14 postpayment internal controls.”.

15 (g) DETERMINATION OF AGENCY READINESS FOR
16 OPINION ON INTERNAL CONTROL.—Not later than 1 year
17 after the date of enactment of this Act, the Director of
18 the Office of Management and Budget shall develop—

19 (1) specific criteria as to when an agency
20 should initially be required to obtain an opinion on
21 internal control over financial reporting; and

22 (2) criteria for an agency that has dem-
23 onstrated a stabilized, effective system of internal
24 control over financial reporting, whereby the agency
25 would qualify for a multiyear cycle for obtaining an

1 audit opinion on internal control over financial re-
2 porting, rather than an annual cycle.

3 (h) RECOVERY AUDITS.—

4 (1) DEFINITION.—In this subsection, the term
5 “agency” has the meaning given under section 2(f)
6 of the Improper Payments Information Act of 2002
7 (31 U.S.C. 3321 note) as redesignated by this Act.

8 (2) IN GENERAL.—

9 (A) CONDUCT OF AUDITS.—Except as pro-
10 vided under paragraph (4) and if not prohibited
11 under any other provision of law, the head of
12 each agency shall conduct recovery audits with
13 respect to each program and activity of the
14 agency that expends \$1,000,000 or more annu-
15 ally if conducting such audits would be cost-ef-
16 fective.

17 (B) PROCEDURES.—In conducting recovery
18 audits under this subsection, the head of an
19 agency—

20 (i) shall give priority to the most re-
21 cent payments and to payments made in
22 any program or programs identified as sus-
23 ceptible to significant improper payments
24 under section 2(a) of the Improper Pay-

ments Information Act of 2002 (31 U.S.C.
3321 note);

(ii) shall implement this subsection in
a manner designed to ensure the greatest
financial benefit to the Government; and

(iii) may conduct recovery audits di-
rectly, by procuring performance of recov-
ery audits by contract (subject to the avail-
ability of appropriations), or by any com-
bination thereof.

(C) RECOVERY AUDIT CONTRACTS.—With
respect to recovery audits procured by an agen-
cy by contract—

(i) subject to subparagraph (B)(iii),
the head of the agency may authorize the
contractor to notify entities (including per-
sons) of potential overpayments made to
such entities, respond to questions con-
cerning potential overpayments, and take
other administrative actions with respect to
overpayment claims made or to be made by
the agency; and

(ii) such contractor shall have no au-
thority to make final determinations relat-
ing to whether any overpayment occurred

1 and whether to compromise, settle, or ter-
2minate overpayment claims.

3 (D) CONTRACT TERMS AND CONDITIONS.—

4 The agency shall include in each contract for
5 procurement of performance of a recovery audit
6 a requirement that the contractor shall—

7 (i) provide to the agency periodic re-
8 ports on conditions giving rise to overpay-
9 ments identified by the contractor and any
10 recommendations on how to mitigate such
11 conditions; and

12 (ii) notify the agency of any overpay-
13 ments identified by the contractor per-
14 taining to the agency or to any other agen-
15 cy or agencies that are beyond the scope of
16 the contract.

17 (E) AGENCY ACTION FOLLOWING NOTIFI-
18 CATION.—An agency shall take prompt and ap-
19 propriate action in response to a report or noti-
20 fication by a contractor under subparagraph
21 (D)(ii), to collect overpayments and shall for-
22 ward to other agencies any information that ap-
23 plies to such agencies.

24 (3) DISPOSITION OF AMOUNTS RECOVERED.—

1 (A) IN GENERAL.—Amounts collected by
2 agencies each fiscal year through recovery au-
3 dits conducted under this subsection shall be
4 treated in accordance with this paragraph.

5 (B) USE FOR FINANCIAL MANAGEMENT IM-
6 PROVEMENT PROGRAM.—Not more than 25 per-
7 cent of the amounts collected by an agency
8 through recovery audits—

9 (i) shall be available, subject to appro-
10 priation, to the head of the agency or the
11 State or local government administering
12 the program or activity to carry out the fi-
13 nancial management improvement program
14 of the agency under paragraph (4);

15 (ii) may be credited, if applicable, for
16 that purpose by the head of an agency to
17 any agency appropriations and funds that
18 are available for obligation at the time of
19 collection; and

20 (iii) shall be used to supplement and
21 not supplant any other amounts available
22 for that purpose and shall remain available
23 until expended.

(C) USE FOR ORIGINAL PURPOSE.—Not more than 25 percent of the amounts collected by an agency—

(i) ~~shall be credited to the appropriation or fund, if any, available for obligation at the time of collection~~ *shall be deposited and available subject to appropriation* for the same general purposes as the appropriation or fund from which the overpayment was made; and

(ii) shall remain available for the same period and purposes as the appropriation or fund to which credited.

(D) USE FOR INSPECTOR GENERAL ACTIVITIES.—Not more than 5 percent of the amounts collected by an agency shall be available, subject to appropriation, to the Inspector General of that agency for—

(i) the Inspector General to carry out this Act; or

(ii) any other activities of the Inspector General relating to investigating improper payments or auditing internal controls associated with payments.

1 (E) DEPOSIT OF PROCEEDS.—Funds made
2 available under subparagraphs (B) and (D) by
3 appropriations shall be—

4 (i) deposited into the appropriate pro-
5 gram integrity accounts of the agency or
6 the State or local government admin-
7 istering the program or activity; and

8 (ii) expended only as authorized in an-
9 nual appropriations Acts.

10 (F) REMAINDER.—Amounts collected that
11 are not applied in accordance with subpara-
12 graphs (B), (C), or (D) or to meet obligations
13 to recovery audit contractors shall be deposited
14 in the Treasury as miscellaneous receipts.

15 (G) EXCEPTIONS RELATING TO ENTITLE-
16 MENT AND TAX CREDIT PROGRAMS.—This
17 paragraph shall not apply to amounts collected
18 through recovery audits conducted under this
19 subsection relating to—

20 (i) entitlement programs under section
21 3(9) of the Congressional Budget and Im-
22 poundment Control Act of 1974 (2 U.S.C.
23 622(9)); or

24 (ii) tax credit programs under the In-
25 ternal Revenue Code of 1986.

1 (4) FINANCIAL MANAGEMENT IMPROVEMENT
2 PROGRAM.—

3 (A) REQUIREMENT.—The head of each
4 agency shall conduct a financial management
5 improvement program, consistent with rules
6 prescribed by the Director of the Office of Man-
7 agement and Budget.

8 (B) PROGRAM FEATURES.—In conducting
9 the program, the head of the agency—

10 (i) shall, as the first priority of the
11 program, address problems that contribute
12 directly to agency improper payments; and

13 (ii) may seek to reduce errors and
14 waste in other agency programs and oper-
15 ations.

16 (5) OTHER RECOVERY AUDIT REQUIRE-
17 MENTS.—

18 (A) IN GENERAL.—Subchapter VI of chap-
19 ter 35 of title 31, United States Code, is re-
20 pealed.

21 (B) TECHNICAL AND CONFORMING AMEND-
22 MENTS.—

23 (i) TABLE OF SECTIONS.—The table
24 of sections for chapter 35 of title 31,

1 United States Code, is amended by strik-
 2 ing the matter relating to subchapter VI.

3 (ii) DEFINITION.—Section 3501 of
 4 title 31, United States Code, is amended
 5 by striking “and subchapter VI of this
 6 title”.

7 (iii) HOMELAND SECURITY GRANTS.—
 8 Section 2022(a)(6) of the Homeland Secu-
 9 rity Act of 2002 (6 U.S.C. 612(a)(6)) is
 10 amended by striking “(as that term is de-
 11 fined by the Director of the Office of Man-
 12 agement and Budget under section 3561 of
 13 title 31, United States Code)” and insert-
 14 ing “under section 2(h) of the Improper
 15 Payments Elimination and Recovery Act of
 16 2009 (31 U.S.C. 3321 note)”.

17 (6) RULE OF CONSTRUCTION.—Except as pro-
 18 vided under paragraph (5), nothing in this section
 19 shall be construed as terminating or in any way lim-
 20 iting authorities that are otherwise available to agen-
 21 cies under existing provisions of law to recover im-
 22 proper payments and use recovered amounts.

23 (i) REPORT ON RECOVERY AUDITING.—Not later
 24 than 2 years after the date of the enactment of this Act,
 25 the Chief Financial Officers Council established under sec-

tion 302 of the Chief Financial Officers Act of 1990 (31 U.S.C. 901 note), in consultation with the Council of Inspectors General on Integrity and Efficiency established under section 7 of the Inspector General Reform Act of 2009 (Public Law 110–409) and recovery audit experts, shall conduct a study of—

(1) the implementation of subsection (h);

(2) the costs and benefits of agency recovery audit activities, including those under subsection (h), and including the effectiveness of using the services of—

(A) private contractors;

(B) agency employees;

(C) cross-servicing from other agencies; or

(D) any combination of the provision of services described under subparagraphs (A) through (C); and

(3) submit a report on the results of the study to—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate;

(B) the Committee on Oversight and Government Reform of the House of Representatives; and

(C) the Comptroller General.

1 **SEC. 3. COMPLIANCE.**

2 (a) DEFINITIONS.—In this section:

3 (1) AGENCY.—The term “agency” has the
4 meaning given under section 2(f) of the Improper
5 Payments Information Act of 2002 (31 U.S.C. 3321
6 note) as redesignated by this Act.

7 (2) ANNUAL FINANCIAL STATEMENT.—The
8 term “annual financial statement” means the annual
9 financial statement required under section 3515 of
10 title 31, United States Code, or similar provision of
11 law.

12 (3) COMPLIANCE.—The term “compliance”
13 means that the agency—

14 (A) has published an annual financial
15 statement for the most recent fiscal year and
16 posted that report and any accompanying mate-
17 rials required under guidance of the Office of
18 Management and Budget on the agency
19 website;

20 (B) if required, has conducted a program
21 specific risk assessment for each program or ac-
22 tivity that conforms with section 2(a) the Im-
23 proper Payments Information Act of 2002 (31
24 U.S.C. 3321 note);

25 (C) if required, publishes improper pay-
26 ments estimates for all programs and activities

1 identified under section 2(b) of the Improper
2 Payments Information Act of 2002 (31 U.S.C.
3 3321 note) in the accompanying materials to
4 the annual financial statement;

5 (D) publishes programmatic corrective ac-
6 tion plans prepared under section 2(c) of the
7 Improper Payments Information Act of 2002
8 (31 U.S.C. 3321 note) that the agency may
9 have in the accompanying materials to the an-
10 nual financial statement;

11 (E) publishes improper payments reduction
12 targets established under section 2(c) of the
13 Improper Payments Information Act of 2002
14 (31 U.S.C. 3321 note) that the agency may
15 have in the accompanying materials to the an-
16 nual financial statement for each program as-
17 sessed to be at risk, and is meeting such tar-
18 gets; and

19 (F) has reported an improper payment
20 rate of less than 10 percent for each program
21 and activity for which an estimate was pub-
22 lished under section 2(b) of the Improper Pay-
23 ments Information Act of 2002 (31 U.S.C.
24 3321 note).

1 (b) ANNUAL COMPLIANCE REPORT BY INSPECTORS

2 GENERAL OF AGENCIES.—Each fiscal year, the Inspector

3 General of each agency shall determine whether the agen-

4 cy is in compliance and submit a report on that determina-

5 tion to—

6 (1) the head of the agency;

7 (2) the Committee on Homeland Security and

8 Governmental Affairs of the Senate;

9 (3) the Committee on Oversight and Govern-

10 mental Reform of the House of Representatives; and

11 (4) the Comptroller General.

12 (c) REMEDIATION.—

13 (1) NONCOMPLIANCE.—

14 (A) IN GENERAL.—If an agency is deter-

15 mined by the Inspector General of that agency

16 not to be in compliance under subsection (b) in

17 a fiscal year, the head of the agency shall sub-

18 mit a plan to Congress describing the actions

19 that the agency will take to come into compli-

20 ance.

21 (B) PLAN.—The plan described under sub-

22 paragraph (A) shall include—

23 (i) measurable milestones to be ac-

24 complished in order to achieve compliance

25 for each program or activity;

1 (ii) the designation of a senior agency
2 official who shall be accountable for the
3 progress of the agency in coming into com-
4 pliance for each program or activity; and

5 (iii) the establishment of an account-
6 ability mechanism, such as a performance
7 agreement, with appropriate incentives and
8 consequences tied to the success of the of-
9 ficial designated under clause (ii) in lead-
10 ing the efforts of the agency to come into
11 compliance for each program and activity.

12 (2) NONCOMPLIANCE FOR 2 FISCAL YEARS.—

13 (A) IN GENERAL.—If an agency is deter-
14 mined by the Inspector General of that agency
15 not to be in compliance under subsection (b) for
16 2 consecutive fiscal years for the same program
17 or activity, and the Director of the Office of
18 Management and Budget determines that addi-
19 tional funding would help the agency come into
20 compliance, the head of the agency shall obli-
21 gate additional funding, in an amount deter-
22 mined by the Director, to intensified compliance
23 efforts.

24 (B) FUNDING.—In providing additional
25 funding described under subparagraph (A), the

1 head of an agency shall use any reprogramming
2 or transfer authority available to the agency. If
3 after exercising that reprogramming or transfer
4 authority additional funding is necessary to ob-
5 ligate the full level of funding determined by
6 the Director of the Office of Management and
7 Budget under subparagraph (A), the agency
8 shall submit a request to Congress for addi-
9 tional reprogramming or transfer authority.

10 (3) REAUTHORIZATION PROPOSALS.—If an
11 agency is determined by the Inspector General of
12 that agency not to be in compliance under sub-
13 section (b) for more than 3 consecutive fiscal years
14 for the same program or activity, the head of the
15 agency shall, not later than 30 days after such de-
16 termination, submit to Congress—

17 (A) reauthorization proposals for each pro-
18 gram or activity that has not been in compli-
19 ance for 3 or more consecutive fiscal years; or

20 (B) proposed statutory changes necessary
21 to bring the program or activity into compli-
22 ance.

23 (d) COMPLIANCE ENFORCEMENT PILOT PRO-
24 GRAMS.—

1 (1) IN GENERAL.—The Director of the Office of
2 Management and Budget may establish 1 or more
3 pilot programs which shall test potential account-
4 ability mechanisms with appropriate incentives and
5 consequences tied to success in ensuring compliance
6 with this Act and eliminating improper payments.

7 (2) REPORT.—Not later than 5 years after the
8 date of enactment of this Act, the Director of the
9 Office of Management and Budget shall submit a re-
10 port to Congress on the findings associated with any
11 pilot programs conducted under paragraph (1). The
12 report shall include any legislative or other rec-
13 ommendations that the Director determines nec-
14 essary.

15 (e) REPORT ON CHIEF FINANCIAL OFFICERS ACT OF
16 1990.—Not later than 1 year after the date of the enact-
17 ment of this Act, the Chief Financial Officers Council es-
18 tablished under section 302 of the Chief Financial Officers
19 Act of 1990 (31 U.S.C. 901 note) and the Council of In-
20 spectors General on Integrity and Efficiency established
21 under section 7 of the Inspector General Reform Act of
22 2009 (Public Law 110–409), in consultation with a broad
23 cross-section of experts and stakeholders in Government
24 accounting and financial management shall—

1 (1) jointly examine the lessons learned during
2 the first 20 years of implementing the Chief Finan-
3 cial Officers Act of 1990 (31 U.S.C. 901) and iden-
4 tify any reforms or improvements to the legislative
5 and regulatory compliance framework for Federal fi-
6 nancial management that will optimize Federal
7 agency efforts to—

8 (A) publish relevant, timely, and reliable
9 reports on Government finances; and

10 (B) implement internal controls that miti-
11 gate the risk for fraud, waste, and error in Gov-
12 ernment programs; and

13 (2) submit a report on the results of the exam-
14 ination to—

15 (A) the Committee on Homeland Security
16 and Governmental Affairs of the Senate;

17 (B) the Committee on Oversight and Gov-
18 ernment Reform of the House of Representa-
19 tives; and

20 (C) the Comptroller General.

Calendar No. 430

11TH CONGRESS
2^D Session

S. 1508

A BILL

To amend the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) in order to prevent the loss of billions in taxpayer dollars.

JUNE 15, 2010

Reported with an amendment